

REMARKS

Reconsideration of the present application in light of the above amendments and the following remarks is respectfully requested. Claims 1, 5, 7, 10-16, 25 and 26 are pending. By the present amendment, claims 1 and 25 have been amended to incorporate objected to claim 14 therein, claim 14 has been canceled, claims 13, 15, and 16 have been amended to depend from claim 1, and claim 5 has been amended to correct language therein. No new matter has been added by these amendments.

**Priority**

Applicants thank Examiner for noting priority for each claim except claim 7 to June 7, 1995. While Applicants believe they are entitled to that priority for claim 7 as well and do not acquiesce to this assertion, nevertheless, Applicants reserve the right to address this issue in a timely filed continuation application.

**Response to Previous Arguments**

Applicants thank the Examiner for withdrawal of all previous art rejections and various 112 rejections.

**Claim Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 5, 13, 25 and 26 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention at the time the application was filed. In particular, the Action alleges that claim 5 lacks antecedent basis, claim 13 is dependent from a canceled base claim, and claim 25 is unclear in that the claim does not make clear whether the detectable marker only undergoes color change when reacted upon by *Campylobacter*.

Applicants thank the Examiner for pointing out these informalities. The claims have now been amended for clarification purposes. In particular, claim 5 has been amended to correct antecedent basis, claim 13 has been amended to depend from claim 1 and claim 25 has

been amended to clarify that a viable microorganism will cause the detectable marker to undergo a color change. Accordingly, Applicants respectfully submit that these rejections have been obviated and thus, respectfully request the aforementioned rejections be withdrawn.

**Claim Rejection under 35 U.S.C. § 103(a)**

Claims 1, 5, 7, 10-16 and 25-26 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over Tuompo *et al.* (U.S. Patent No. 5,420,017) and Manafi *et al.* (J. Applied Bacteriology, 1990).

Applicants respectfully traverse this rejection and submit nothing in the cited references suggest the presently claimed invention which is a novel and non-obvious composition. Applicants submit that the present invention meets a long felt need. Given that the cited references date from 1991 and 1990, it is clear that the present invention is far from obvious given the desire to create such an assay and but for Applicants invention, a lack of any comparable compositions and assays. Nevertheless, solely to expedite prosecution of the currently claimed embodiment, Applicants have amended the rejected independent claims to incorporate objected to claim 14, thereby obviating this ground for rejection. Applicants reserve the right to re-address this art in a timely filed continuation application. Accordingly, Applicants respectfully submit that this rejection has been overcome and thus request the rejection be withdrawn.

**Claim Objections**

Applicants thank the Examiner for noting that claims 14-16 stand objected to as being dependent from a rejected base claim, but would be allowable if re-written in independent form. Applicants have amended independent claims 1 and 25 to incorporate the limitations of claim 14 and amended claims 15 and 16 to depend from claim 1. Accordingly, Applicants are of the belief that said amendments will lead to allowance of all remaining claims.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,  
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